

# PROTECTION ORDERS: UPDATES AND FAQs

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## INDIANA COURTS

- In 2022:

**37,274**

Civil Protection Order Petitions Filed

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## SERVICE WITH NO ADDRESS

- MOST ASKED QUESTION
  - Typically those are served by the county sheriff
  - We are working on better instructions for electronic filing
  - Indiana Rule of Trial Procedure 4
  - Judge should be able to help
  - Many more ways to get a respondent actual notice of an order
  - Get as much information as you can: phone, email, social media, etc.

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## SERVICE WITH NO ADDRESS

- Always pass along to the court
- Clerks should not ever reject a protection order petition
  - Only if they did not pay the filing fee
  - Selected incorrect case management system
  - Requested rejection
- If the court wants to handle a petition a certain way or request additional information from the petitioner, that's up to the judge

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## SERVICE OUT OF STATE

- Federal law (and Indiana law) prohibit charging any fees for protection orders
  - If you have to send an order out of state
    - Call ahead and speak to the local sheriff's office
    - Remind them that they need to serve the order at no cost
    - Continuing to charge a fee will affect the state's funding through the Violence Against Women Act
    - If all of that fails, the charge for service can be passed along to the respondent

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## VENUE

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A petition for an order for protection must be filed in the county in which the:

- (1) Petitioner currently or temporarily resides;
- (2) Respondent resides; or
- (3) Domestic or family violence occurred.

There is no minimum residency requirement to petition for an order for protection.

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## ASSISTANCE WITH PO

Indiana Code 34-26-5-3(d):

- The clerk of the circuit court, or a person or entity designated by the clerk of the circuit court, shall provide to a person requesting an order for protection:
  - (1) the forms adopted under subsection (a);
  - (2) all other forms required to petition for an order for protection, including forms:
    - (A) necessary for service; and
    - (B) required under IC 31-21 (or IC 31-17-3 before its repeal);

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## ASSISTANCE WITH PO

Indiana Code 34-26-5-3(d) cont.

- (3) clerical assistance in reading or completing the forms and filing the petition.

Clerical assistance provided by the clerk or court personnel under this section does not constitute the practice of law. The clerk of the circuit court may enter into a contract with a person or another entity to provide this assistance. A person, other than a person or other entity with whom the clerk has entered into a contract to provide assistance, who in good faith performs the duties the person is required to perform under this subsection is not liable for civil damages that might otherwise be imposed on the person as a result of the performance of those duties unless the person commits an act or omission that amounts to gross negligence or willful and wanton misconduct.

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## ASSISTANCE WITH PO

- Work with legal advocates
- Have the paper forms available
- Computer Access

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## ASSISTANCE WITH PO

- DO:
  - Help read the petition
  - Ensure they have the correct paperwork
  - Explain the process of what will happen
- DO NOT:
  - Help petitioners craft their narratives
  - Suggest wording to them to help their chance of success
  - Prepare exhibits

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## CONFIDENTIALITY

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Protection Orders are not Confidential

# EXCEPT

Information contained in Confidential Form\*\*

\*\*And protection orders transferred to juvenile court

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## INDIANA RULES ON ACCESS TO COURT RECORDS

- **(C)** Personal Information of Litigants, Witnesses, and Children:
- **(1)** Unless necessary to the disposition of the case, the following information shall be redacted, and no notice of exclusion from Public Access is required:
  - **(a)** Complete Social Security Numbers of living persons;
  - **(b)** Complete account numbers, personal identification numbers, and passwords. If the information is necessary to the disposition of the case, the document containing the confidential information shall be filed on green paper (if paper filing) or filed as a confidential document (if e-filing). A separate document with the confidential information redacted shall be filed on white paper (if paper filing) or filed as a public document (if e-filing). A separate ACR Form identifying the information excluded from public access and the Rule 5 grounds for exclusion shall also be filed.
- **(2)** The names of child witnesses in cases involving sex offenses shall be excluded from public access, and any references shall be replaced with initials or similar designation that ensures their anonymity, with no notice of exclusion from Public Access required. Names shall not be redacted in protection order cases or on no contact orders.

[Ind. ACR R 5](#)

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## EXPUNGEMENTS

### **34-26-7.5-3. Petition to expunge protection order.**

**(a)** At any time after a court dismisses or denies an order for protection following issuance of an order for protection ex parte, as described in section 1(1) [IC 34-26-7.5-1(1)] of this chapter, the subject of the protection order may petition to expunge protection order records:

- (1)** with the court that issued or denied the protection order; and
- (2)** in the cause the protection order was issued under.

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## EXPUNGEMENTS

**(b)** A petition seeking to expunge protection order records must be filed under seal, verified, and include the following information:

- (1)** The petitioner's full name.
- (2)** The petitioner's date of birth.
- (3)** The petitioner's address.
- (4)** The case number or court cause number, if available.
- (5)** The petitioner's Social Security number.
- (6)** The petitioner's driver's license number.
- (7)** The date of the order for protection or order for protection ex parte, if applicable.
- (8)** A description of why the petitioner is entitled to relief, including all relevant dates.
- (9)** Certified copies of the following, if applicable:
  - (A)** The order for protection.
  - (B)** The order for protection ex parte.
  - (C)** The order denying an order for protection.
  - (D)** The opinion from the appellate court reversing or vacating an order for protection or an order for protection ex parte.

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## NEED HELP?

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Court Technology Help Desk: 1-888-275-5822  
Help Desk email: [help@courts.in.gov](mailto:help@courts.in.gov)

Substantive help: Melissa Arvin 317-233-0784  
[Melissa.Arvin@courts.in.gov](mailto:Melissa.Arvin@courts.in.gov)

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## **ADDITIONAL INFORMATION**

### **Protection Order Committee**

-Purpose, Structure, Meetings

**Forms** → <https://www.in.gov/courts/iocs/publications/po-forms/>

### **Desk Book**

-Purpose, Layout, Update Version, Where to Find

### **Survey of Counties - PO Processes/Duties**

-Allen County

**[Chris.Nancarrow@allencounty.us](mailto:Chris.Nancarrow@allencounty.us)** (260) 449-3902

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# PROTECTION ORDER DESK BOOK

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